

Chapter 175
(Senate Bill 24)

An Act to revise the fees for pesticide registration, private applicator licenses, commercial applicator licenses, and pesticide dealer licenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 38-20A-4 be AMENDED:

38-20A-4. Pesticides--Sale or distribution--Registration--Contents--Fees--Cancellation.

Before any person whose name or brand name appears on a pesticide may distribute, sell, or offer for sale or distribution in this state any pesticide, the person shall file with the secretary of agriculture an ~~application for the~~ a registration of the pesticide. Each ~~application~~ registration shall include the following:

- (1) The name and address of the ~~applicant~~ registrant and the name and address of the person whose name will appear on the label, if other than the ~~applicant~~ registrant;
- (2) The name of the pesticide;
- (3) One complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for ~~it~~ the pesticide, including directions for use;
- (4) If requested by the secretary, efficacy, toxicity, residue, and any other data necessary to determine if the pesticide will perform its intended function without unreasonable adverse effects on the environment;
- (5) The classification or lack of classification and general use or restricted use of the pesticide; and
- (6) An annual ~~application~~ registration fee of ~~one hundred twenty one~~ hundred sixty-five dollars.

Each registration is valid for one year and expires on June thirtieth. The registration may not be transferred. A fee equal to fifty percent of

the ~~application~~ registration fee shall be applied to any late renewal. Each pesticide ~~application~~ registration fee is nonrefundable.

If a pesticide is no longer available for use due to a cancellation or suspension order of the United States Environmental Protection Agency, it is not subject to registration requirements. If the holder of a pesticide registration cancels the registration, the pesticide shall ~~complete a two-year discontinuance period~~ be discontinued within two years. During the discontinuance period, the annual ~~application~~ registration fee shall be paid.

Section 2. That § 38-20A-59 be AMENDED:

38-20A-59. Registration fees--Distribution.

The annual ~~application~~ registration fee for each pesticide registered in § 38-20A-4 shall be distributed as follows:

- (1) ~~Twenty-Forty-five~~ dollars shall be deposited in the pesticide regulatory fund created in § 38-21-57;
- (2) Thirty-three dollars and seventy-five cents shall be deposited in the weed and pest fund created in § 38-22-35;
- (3) Twenty-one dollars and twenty-five cents shall be deposited in the public lands weed and pest fund created in § 38-20A-58;
- (4) Fifteen dollars shall be deposited within the agricultural experiment station pursuant to chapter 13-58;
- (5) Ten dollars shall be deposited within the cooperative extension service pursuant to chapter 13-54; and
- (6) ~~Twenty-Forty~~ dollars shall be deposited in the pesticide recycling and disposal fund created in § 38-20A-56.

The late renewal fee in § 38-20A-4 shall be divided equally among the weed and pest fund created in § 38-22-35, the pesticide regulatory fund created in § 38-21-57, and the public lands weed and pest fund created in § 38-20A-58.

Section 3. That § 38-21-17 be AMENDED:

**38-21-17. Commercial applicator license--Annual fee--
Violation as misdemeanor--Civil penalty.**

No person may engage perform any of the following acts without a commercial applicator's license issued by the secretary, unless exempt under the provisions of this chapter:

- (1) Engage in the business of applying pesticides to the lands of another, advertise;
- (2) Advertise as being in the business of applying pesticides to the lands of another at any time, apply;
- (3) Apply pesticides while in the performance of duties as a governmental employee or otherwise; or
- (4) Otherwise act as a commercial applicator without an applicator's license issued by the secretary of agriculture, unless exempted under the provisions of this chapter.

The secretary shall require a fee of ~~twenty-five~~ thirty-five dollars for each commercial applicator license issued. The secretary of agriculture shall issue an applicator license to government employees without a license fee. The fee exempt license is valid only when the applicator is applying pesticides in the course of employment for the governmental entity. Any A violation of this section is a Class 2 misdemeanor. In addition to any criminal penalty, any person who violates this section is subject to a civil penalty not to exceed five thousand dollars per violation imposed by the circuit court. Any civil penalty collected shall be deposited into the state general fund.

Section 4. That a NEW SECTION be added:

38-21-17.1. Commercial applicator's license--Expiration.

A commercial applicator's license shall expire on the last day of February of the second year following the year of issuance unless the license is revoked before the expiration by the secretary, as provided in § 38-21-44.

Section 5. That § 38-21-23 be AMENDED:

38-21-23. Private applicator's license--Requirement--Fee--Promulgation of rules--Penalty for violation.

No private applicator may use any pesticide without a license and without first complying with the certification requirements determined by the secretary ~~of agriculture~~ as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use. The secretary may require a license fee, to be established ~~by~~ in rules promulgated pursuant to chapter 1-26 not to exceed ~~five~~ twenty-five dollars ~~for each certification~~. Any person who violates this section is subject to a civil penalty not to exceed five thousand dollars per violation imposed by the circuit court. Any civil penalty collected shall be deposited into the state general fund.

Section 6. That a NEW SECTION be added:

38-21-23.1. Private applicator's license--Expiration.

A private applicator's license shall expire on the last day of February of the third year following the year of issuance unless the license is revoked before the expiration by the secretary, as provided for in § 37-21-44.

Section 7. That § 38-21-26 be REPEALED.

38-21-26. Expiration of applicator's license.

Section 8. That § 38-21-33.5 be AMENDED:

38-21-33.5. Pesticide dealer's license--Fee--Form of application.

~~Application~~ An application for a pesticide dealer's license shall be accompanied by a ~~fifty~~ seventy-five dollar license fee and shall be on a form prescribed by the secretary ~~of agriculture~~.

Section 9. That a NEW SECTION be added:

38-21-33.9. Pesticide dealer's license--Expiration.

A pesticide dealer's license shall expire on the last day of February of the second year following the year of issuance unless the license is revoked before the expiration by the secretary, as provided for in § 38-21-44.

Section 10. That § 38-21-43 be REPEALED.

38-21-43. Penalty for late renewal.

Section 11. That § 38-21-51 be AMENDED:

38-21-51. Administration and enforcement of chapter-- Promulgation of rules.

~~The secretary of agriculture may establish rules promulgated~~
may promulgate rules pursuant to chapter 1-26 ~~concerning providing~~
for:

- (1) The inspection of storage and disposal areas;
- (2) The inspection of application equipment and equipment storage areas;
- (3) The establishment of restricted pesticide uses or methods of distribution;
- (4) Standards for the use, transportation, storage, handling, and disposal of pesticides or pesticide containers, rinsate, and application equipment;
- (5) The reporting of pesticide accidents and incidents;
- (6) Standards for the certification of applicators of pesticides;
- (7) Standards for the examination and testing of applicators of pesticides;
- (8) The establishment of fees for a private applicator certification applicator's license not to exceed ~~five~~ twenty-five dollars per certification license;
- (9) Pesticide applicator reporting and record keeping requirements;
- (10) The establishment of state ~~restricted use~~ restricted-use pesticides for designated areas within the state;
- (11) Pesticide dealers reporting and record keeping requirements;

- (12) The establishment of certification categories and sub-categories;
- (13) The classification or sub-classification of ~~certificates or~~ licenses;
- and
- (14) The use of pesticides through irrigation systems.

Section 12. That § 38-21-57 be AMENDED:

38-21-57. Pesticide regulatory fund--Administration and uses--Expenditures.

Funds collected pursuant to §§ 38-21-17~~7~~and 38-21-33.5~~7~~and ~~38-21-43~~ shall be deposited with the state treasurer in a special revenue fund known as the pesticide regulatory fund. This fund shall consist of moneys from public and private sources including legislative appropriations, federal grants, gifts, and the fees received pursuant to this chapter. The fund shall be maintained separately and be administered by the department in order to defray the expenses of all activities associated with administering the pesticide program. Expenditures from the fund shall be appropriated through the normal budget process. Unexpended funds and interest shall remain in the fund until appropriated by the Legislature.

Signed March 26, 2020
